UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,717	11/06/2000	Robert J Briscoe	36-1382	3564

23117	7590	02/21/2006	EXAMINER
			JONES, PRENELL P

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

ART UNIT	PAPER NUMBER
2668	

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/674,717	BRISCOE ET AL.
	Examiner	Art Unit
	Prenell P. Jones	2668

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 September 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13,15,16,18-26 and 29-36* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *18-22,29,34 and 35* is/are allowed.

6)☒ Claim(s) *1-13,15,16,23-26, 30-33,36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/1/05</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

2.   This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3.   Claims 1-3 and 36, are rejected under 35 U.S.C. 103(a) as being unpatentable

over Easki et al (US PAT 5,440,547) in view of Steijer (US PAT 6,408,174).

Regarding claims 1, 3 and 36, Easki discloses (Abstract, Figs. 5, 7, 13, col. 5, line 61 thru col. 9,

line 29, col. 33 thru 38) data transfer routing and management for a packet communication

system that includes ATM networks wherein there exist multiple internetworking units (IWU),

packets include IP addresses, statistical information is used to charge fees (tariffs) to each

cell/subscriber (multiple customer terminals), usage charge of subscriber is recorded and

multicasting data. Easki is silent on the tariff comprising a formula for calculating charge as a

function of a loading of the communication network for use by at least one of the customer

terminals. In analogous art, Steijer discloses a reducing processor load at tariff switch wherein

the implementation of loading tariff information on user device wherein the tariff can be

calculated and displayed on user device is utilized (Abstract, col. 2, line 48-57, col. 3, line 10

thru col. 4, line 67). Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to be motivated to implement utilizing calculating tariffs at user device

as taught by Steijer with the teachings of Easki for the purpose of reducing processor load at

central system processor.

4.   Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Easki et

al (US PAT 5,440,547) in view of Steijer (US PAT 6,408,174) as applied to claim 1-3

above, and further in view of Wulkan et al.

Regarding claims 4-7, as indicated above, Easki discloses (Abstract, Figs. 5, 7, 13, col. 5, line

61 thru col. 9, line 29, col. 33 thru 38) data transfer routing and management for a packet

communication system that includes ATM networks wherein there exist multiple internetworking

units (IWU), packets include IP addresses, statistical information is used to charge fees (tariffs)

to each cell/subscriber (multiple customer terminals), usage charge of subscriber is recorded

and multicasting data, and Steijer discloses a reducing processor load at tariff switch wherein

the implementation of loading tariff information on user device wherein the tariff can be

calculated and displayed on user device is utilized (Abstract, col. 2, line 48-57, col. 3, line 10

thru col. 4, line 67). However, Easki and Steijer are silent on revising/updating tariff. In

analogous art, Wulkan discloses (Abstract, Figs. 3, 5-11) a telecommunication call management

system wherein the architecture includes (pg. 5, line 15-30) carrier selection database, utilizes

Internet, (pg. 7, line 18-30, pg. 11, line 13-28, pg. 22, line 12 thru pg. 23, line 30, pg. 25, line 26

thru pg. 29, line 32) includes an updating mechanism, updating tariff information/databases

(revising tariff), a plurality of subscribers (terminals), (pg. 7, line 12 thru pg. 8, line 21) updating

a plurality a data servers which holds a geographically based tariff data of service providers,

tariff server includes performance data, billing parameters, cost router, calculate cost (tariff), and

the data server distributes tariff data computers, tariff data server provided for

monitoring/updating changes in telephone service provider tariffs and downloading a database

of tariff data to computers. Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention to be motivated to implement revising tariffs and distributing the

revises tariffs to customer terminals as taught by Wulkan with the combined teachings of Easki

and Steijer for the purpose of further managing services provided to customers with respect to

usage charging associated with communicating information whether it be voice, packet or other

forms of data.

Regarding claims 8 and 9, as indicated above, Easki discloses (Abstract, Figs. 5, 7, 13, col. 5,

line 61 thru col. 9, line 29, col. 33 thru 38) data transfer routing and management for a packet

communication system that includes ATM networks wherein there exist multiple internetworking

units (IWU), packets include IP addresses, statistical information is used to charge fees (tariffs)

to each cell/subscriber (multiple customer terminals), usage charge of subscriber is recorded

and multicasting data. Easki further discloses data travel via determined routes, which include

selected links (predetermined channels) and tariff charge based on a variety traffic flow

parameter such as bandwidth.

5.   Claims 2, 13-16, 23-26 and 33 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Easki et al (US PAT 5,440,547) in view of Steijer (US PAT

6,408,174) as applied to claims 1 and 3 above, and further in view of Saari et al.

Regarding claims 2, 13-16, 23-26 and 33, as indicated above, Easki discloses (Abstract, Figs. 5,

7, 13, col. 5, line 61 thru col. 9, line 29, col. 33 thru 38) data transfer routing and management

for a packet communication system that includes ATM networks wherein there exist multiple

internetworking units (IWU), packets include IP addresses, statistical information is used to

charge fees (tariffs) to each cell/subscriber (multiple customer terminals), usage charge of

subscriber is recorded and multicasting data and Steijer discloses a reducing processor load at

tariff switch wherein the implementation of loading tariff information on user device wherein the

tariff can be calculated and displayed on user device is utilized (Abstract, col. 2, line 48-57, col.

3, line 10 thru col. 4, line 67. However, Easki and Steijer are silent in communicating a formula

for calculating charge usage along with a separate formula for coefficients used calculating

coefficients used in charge usage formula. In analogous art, Sarri discloses (Abstract, Figs. 1-3,

6-12, 14, col. 4, line 4 thru col. 8, line 28) determining charges for usage of a network

connection whereby the architecture includes ATM network environment, fixed tariff/billing

charge, communicating packet data, multiple nodes, billing unit used for computing connection

usage charge, fixed rate/variable rate billing schemes, possible factors used as variables

associated with usage charge formula include service type, QoS, ATM parameters, connection

time, other traffic flow parameters, (col. 14, line 5 thru col. 26, line 21) usage charge formula

consist of various coefficients and formulas for computing the various variables/coefficients, (fig.

6, col. 11, line 56 thru col. 12, line 7, col. 17, line 60 thru col. 18, line 51, col. 21, line 42 thru col.

24, line 67) detecting load levels/load status, furthermore Saari suggest that the Internet can

also be implemented. Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to implement separate/multiple formulae for calculating network service

charges and its associated multiple variables/coefficients/factors as taught by Saari with the

combined teachings of Easki and Steijer for the purpose of further managing network services

along with analyzing network usage in a communication system.

6.   Claims 11, 12, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Easki et al (US PAT 5,440,547) in view of Steijer (US PAT 6,408,174) as applied to

claims 1, 3, 8, 9 above, and further in view of Okamoto (US PAT 4,796,297).

Regarding claims 11, 12, 30 and 32, as indicated above, Easki discloses (Abstract, Figs. 5, 7,

13, col. 5, line 61 thru col. 9, line 29, col. 33 thru 38) data transfer routing and management for a

packet communication system that includes ATM networks wherein there exist multiple

Inter-networking units (IWU), packets include IP addresses, statistical information is used to

charge fees (tariffs) to each cell/subscriber (multiple customer terminals), usage charge of

subscriber is recorded and multicasting data, and Steijer discloses a reducing processor load at

tariff switch wherein the implementation of loading tariff information on user device wherein the

tariff can be calculated and displayed on user device is utilized (Abstract, col. 2, line 48-57, col.

3, line 10 thru col. 4, line 67. Both Easki and Steijer are silent on encrypting/decrypting usage

charges. In analogous art, Okamoto discloses (Abstract, 1-16b, col. 7, line 3 thru col. 9, line 58,

col. 11, line 12 thru col. 12, line 39) calculating billing charges associated with usage of network

services, multiple subscribers, communicating packet data, encryption/decryption unit, encrypt

charge into a check code. Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention to be motivated to implement billing charges as taught by

Okamoto with the combined teachings of Easki and Steijer for the purpose of maintaining some

kind of security associated with customer billing/usage charge with respect to services provided.

Allowable Subject Matter

7.   Claims 18-22, 29, 34, 35 are allowed over prior art.

8.   The following is a statement of reasons for the indication of allowable subject matter:

Although the cited art, Easki et al, Steijer, Wulkan et al, Saari et al, Okamoto disclose data

transfer routing and management for a packet communication system that includes ATM

networks wherein there exist multiple internetworking units (IWU), packets include IP

addresses, statistical information is used to charge fees (tariffs) to each cell/subscriber (multiple

customer terminals), usage charge of subscriber is recorded and multicasting data, a

telecommunication call management system wherein the architecture includes carrier selection

database, utilizes Internet, includes an updating mechanism, updating tariff

information/databases (revising tariff), a plurality of subscribers, updating a plurality a data

servers which holds a geographically based tariff data of service providers, tariff server includes

performance data, billing parameters, cost router, calculate cost (tariff), and the data server

distributes tariff data computers, tariff data server provided for monitoring/updating changes in

telephone service provider tariffs and downloading a database of tariff data to computers, fixed

rate/variable rate billing schemes, possible factors used as variables associated with usage

charge formula include service type, QoS, ATM parameters, connection time, other traffic flow

parameter usage charge formula consist of various coefficients and formulas for computing the

various variables/coefficients, detecting load levels/load status, communicating packet data,

encryption/decryption unit, encrypt charge into a check code the fail to teach/suggest with

respect to claim 18-22, 29, 34 and 35, sampling part of the traffic communicated between users

and the network, and for sampled traffic comparing any payments made by users, comparing

sampled traffic with traffic contracted for by the user, amending the user status when a

discrepancy between the sampled parameters and the contracted parameters are detected.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Prenell P. Jones whose telephone number is 571-272-

3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones
February 6, 2006

CHI PHAM
PERVISORY PATENT EXAMIN
HUNICA GRY CENTER